STATUTORY INSTRUMENTS

2015 No. 673

INCOME TAX

The Overseas Pension Schemes (Miscellaneous Amendments) Regulations 2015

Made - - - -	*12th March 2015*
Laid before the House of Commons - - - -	*13th March 2015*
Coming into force - -	*6th April 2015*

The Commissioners for Her Majesty's Revenue and Customs in exercise of the powers conferred by sections 150(8), 169(4), (4A), (4B) and (8) and 251(4) of the Finance Act 2004(**1**) (and, in the case of section 251(4), now exercisable by them) make the following Regulations(**2**):

Citation and commencement

1. These Regulations may be cited as The Overseas Pension Schemes (Miscellaneous Amendments) Regulations 2015 and come into force on 6th April 2015.

Amendments to the Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006

2. The Pension Schemes (Categories of Country and Requirements for Overseas Pension Schemes and Recognised Overseas Pension Schemes) Regulations 2006(**3**) are amended as follows.

3. In regulation 3 (recognised overseas pension schemes: prescribed countries or territories and prescribed requirements)—

(a) in paragraph (1)(a)(**4**) for "the requirement in paragraph (6)" substitute "the requirements in paragraphs (6) and (6A)";

(**1**) 2004 c.12 ("the Act"). Section 150(8) was amended by section 53 of the Finance Act 2013 (c.29). Section 169(4), (4A) and (4B) was substituted, and section 169(8) inserted, by section 53 of the Finance Act 2013; and section 169(4) was amended by paragraph 92 of Schedule 1 to the Taxation of Pensions Act 2014 (c.30) ("TPA"). Section 251(4) and (5) was amended by paragraph 93 of Schedule 1 to the TPA, by section 49 of the Finance Act 2010 (c.13) and by paragraph 47 of Schedule 10 to the Finance Act 2005 (c.7).

(**2**) The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c.11) ("CRCA"). Section 50(1) of CRCA provides that, in so far as is appropriate in consequence of section 5, a reference, howsoever expressed, to the Commissioners of Inland Revenue is to be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(**3**) S.I. 2006/206.

(**4**) Paragraph (1) was substituted by S.I. 2013/2259.

(b) after paragraph (6)(**5**) insert—

"(6A) The benefits payable to the member under the scheme, to the extent that they consist of the member's relevant transfer fund, are payable no earlier than they would be if pension rule 1 in section 165 applied.".

Amendments to the Pension Schemes (Information Requirements - Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pensions Schemes and Corresponding Relief) Regulations 2006

4. The Pension Schemes (Information Requirements - Qualifying Overseas Pension Schemes, Qualifying Recognised Overseas Pensions Schemes and Corresponding Relief) Regulations 2006(**6**) are amended as follows.

5. After regulation 3A (information – transfer of sums or assets to a QROPS)(**7**) insert—

"**Information provided to member of QROPS or former QROPS by scheme manager where it appears member may be first flexibly accessing pension rights**

3AA.—(1) If a relevant event occurs in relation to a member of a QROPS or former QROPS which is to be treated as a registered pension scheme for the purposes of section 227G (when pension rights are first flexibly accessed)(**8**) by virtue of paragraph 9ZA or 9ZB of Schedule 34 (non-UK schemes: application of certain charges)(**9**), the scheme manager—

(a) must provide the member with a statement—

(i) stating the date of the relevant event; and

(ii) explaining the matters specified in paragraph (3); and

(b) must do so before the end of 91 days beginning with the date of the relevant event,

but this is subject to paragraphs (4) and (7).

(2) For the purposes of this regulation—

(a) if—

(i) the member has a member's flexi-access drawdown fund(**10**) in respect of an arrangement under the scheme; and

(ii) the fund came into existence as a result of sums or assets being designated on or after 6th April 2015 as available for the payment of drawdown pension,

a relevant event occurs when a qualifying payment is made to the member from the fund;

(b) if section 165(3A) (pension rules)(**11**) applied in the individual's case to an arrangement at any time before 6th April 2015, a relevant event occurs at the start of 6th April 2015;

(c) if—

(**5**) Paragraph (6) was inserted by S.I. 2012/884.
(**6**) S.I. 2006/208; amended by S.I. 2012/884 and 2013/2259; there are other amending instruments but none is relevant.
(**7**) Regulation 3A was inserted by S.I. 2012/884.
(**8**) Section 227G was inserted by paragraph 65 of Schedule 1 to the TPA and applies, including references to a member of a pension scheme flexibly accessing pension rights, by virtue of paragraph 9ZA or 9ZB of Schedule 34 to the Act in relation to a QROPS or former QROPS which meets the requirements in that paragraph. Paragraphs 8 to 12 of Schedule 34 contain additional provision relating to the annual allowance charge in respect of relevant non-UK schemes.
(**9**) Paragraphs 9ZA and 9ZB were inserted by paragraph 95 of Schedule 1 to the TPA.
(**10**) "Member's flexi-access drawdown fund" is defined in paragraph 8A of Schedule 28 of the Act.
(**11**) Section 165(3A) was inserted by paragraph 1 of Schedule 16 to the Finance Act 2011 (c.11).

(i) the member has a member's drawdown pension fund in respect of an arrangement under the scheme; and

(ii) the sums or assets that make up the fund become newly-designated funds by the operation of paragraph 8B or 8C of Schedule 28 (registered pension schemes: authorised pensions – supplementary)(**12**),

a relevant event occurs when a qualifying payment is made to the member from the member's flexi-access drawdown fund in respect of the arrangement; or

(d) a relevant event occurs when an uncrystallised funds pension lump sum(**13**) is paid to the member by the scheme.

(3) The matters mentioned in paragraph (1)(a)(ii) are—

(a) that a relevant event has occurred in relation to the member and that, as a result, the member has flexibly accessed the member's pension rights (although may first have done so previously);

(b) that if in any tax year the total of the pension inputs to money purchase arrangements, and certain hybrid arrangements, relating to the member exceeds £10,000—

(i) there will be an annual allowance tax charge on the excess; and

(ii) the annual allowance for pension inputs to other arrangements relating to the member will be £10,000 less than it would otherwise be;

(c) where paragraph (2)(d) applies, that the member may be liable to a charge under section 636A(1A) and (1B) (exemption for certain lump sums) of ITEPA 2003(**14**) by virtue of paragraph 1(3)(da) of Schedule 34 (member payment charges)(**15**); and

(d) the duties under regulation 3AB and the circumstances in which the member will have to comply with them.

(4) The scheme manager is not required to comply with paragraph (1) if—

(a) the scheme manager has complied with paragraph (1) in respect of an earlier relevant event; or

(b) the scheme manager is, at any time before complying with paragraph (1) in relation to the relevant event, informed—

(i) by the member; or

(ii) by the scheme manager of another QROPS or former QROPS or by the scheme administrator of a registered pension scheme,

that the member flexibly accessed pension rights at a time before the relevant event occurred.

(5) In this regulation, a reference to a qualifying payment from a fund is a reference to—

(a) payment of income withdrawal from the fund; or

(b) payment of a short-term annuity purchased using sums or assets out of the fund,

(**12**) Paragraphs 8B and 8C were inserted by paragraph 3 of Schedule 1 to the TPA.

(**13**) "Uncrystallised funds pension lump sum" is defined in paragraph 4A of Schedule 29 to the Act.

(**14**) Subsections (1A) and (1B) were inserted by paragraph 62 of Schedule 1 to the TPA. "ITEPA" is defined in section 280 of the Act.

(**15**) Paragraph 1(3)(da) was inserted by paragraph 94 of Schedule 1 to the TPA and applies by virtue of paragraph 1(1) of Schedule 34 in relation to payments made to or in respect of members of relevant non-UK schemes, including QROPS and former QROPS to which these Regulations apply, as if those schemes were registered pension schemes.

but does not include payment at a time when the whole of the fund represents rights attributable to a disqualifying pension credit.

(6) In paragraph (5) "disqualifying pension credit" is to be read in accordance with paragraph 2(3) and (4) of Schedule 29 (registered pension schemes: authorised lump sums – supplementary).

(7) This regulation does not apply unless the member is—

(a) resident in the United Kingdom when the relevant event occurs (or would occur but for this paragraph); or

(b) has been resident in the United Kingdom in any of the five tax years immediately preceding the tax year in which the relevant event occurs (or would occur but for this paragraph).

Passing-on by member of information under regulation 3AA if active or contributing etc

3AB.—(1) Paragraphs (2) and (3) apply if—

(a) an individual receives a statement under regulation 3AA from the scheme manager of a QROPS or former QROPS (the "flexed scheme"); and

(b) on the date of the relevant event concerned, or at any later time, the individual is an accruing member of—

(i) the flexed scheme;

(ii) a relevant non-UK scheme(**16**) which is a QROPS or former QROPS other than the flexed scheme; or

(iii) a registered pension scheme,

and in this regulation "other relevant scheme" is a scheme mentioned in sub-paragraphs (ii) and (iii).

(2) The individual must before the end of the relevant period—

(a) pass on a copy of the statement; or

(b) otherwise give notice—

(i) of receipt of the statement; and

(ii) of the date of the relevant event concerned or (if applicable) of its having occurred more than 2 years before the start of the relevant period,

to the scheme manager or scheme administrator (as the case may be) of each other relevant scheme of which the individual is an accruing member on any day in the intervening period.

(3) Where, in the case of a particular scheme which is any other relevant scheme, the individual is not an accruing member of that other scheme on any day in the intervening period but becomes an accruing member of that scheme on a day ("the activation day") after the last day of that period, the individual must before the end of the 91 days beginning with the activation day—

(a) pass on a copy of the statement; or

(b) otherwise give notice—

(i) of receipt of the statement; and

(**16**) "Relevant non-UK scheme" is defined in paragraph 1 of Schedule 34 to the Act.